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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOSE ANGEL SAGUILAR,

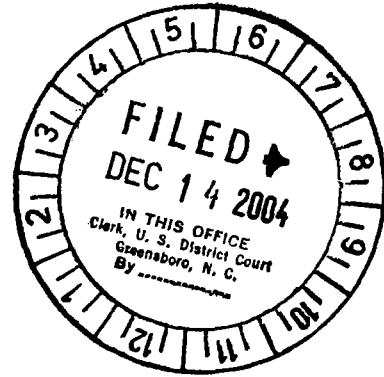
Petitioner,

v.

SIDNEY D. HARKLEROAD,  
Administrator of Marion  
Correctional Inst. and THEODIS  
BECK, Secretary of the North  
Carolina Department of Correction,

Respondents.

1:03CV01008



O R D E R

On September 16, 2004, the United States Magistrate Judge's Recommendation was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. Petitioner filed objections to the Recommendation within the time limit prescribed by Section 636.

The Court has reviewed petitioner's objections de novo and finds they do not change the substance of the United States Magistrate Judge's rulings which are affirmed and adopted.

**IT IS THEREFORE ORDERED** that respondents' motion to dismiss (docket no. 5) is granted, that respondents' motion for summary judgment (docket no. 7) is denied for being moot, that the petition is denied (docket no. 1), that this action is dismissed, and that finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is denied.

December

November 14, 2004

United States District Judge